

REMARKS

These remarks are responsive to the Office Action mailed on January 22, 2010 (“the Office Action”). The Applicant thanks the Examiner for the examination of the above-referenced Application.

The Examiner has removed the previous rejection in light of the persuasive arguments but has now rejected Claims 22-29 and 33-44 in view of Shipp, Jr. *et al.* (hereinafter “Shipp”). The Examiner has rejected the pending claims utilizing the Shipp reference, despite the fact the Examiner has previously acknowledged that at least some claim limitations, which are still pending, overcome the Shipp reference.

Applicant respectfully requests the Examiner to call the Applicant’s representative in order to discuss this matter upon review of this After Final Response.

Status of the Claims

At the time of the Office Action, Claims 22-29 and 33-44 were pending and Claims 22-29 and 33-44 have been rejected.

Claim Rejections - 35 U.S.C. §102/§103

The Examiner has rejected Claims 22-27, 33, 34, 36, 38 and 40 under 35 U.S.C. §102(b) as being anticipated or alternatively by U.S.C. §103(a) as being obvious over Shipp. Applicant respectfully traverses this ground of rejection. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131. “Every element of the claimed invention must be literally present, arranged as in the claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The claims must not be treated as “mere catalogs of separate parts, in disregard of the part-to-part relationships

set forth in the claims and that give the claims their meaning.” *Lindemann*

Maschinenfabrik GMBH v. American Hoist and Derrick Company et al., 730 F.2d 1452, 1459 (Fed. Cir. 1984). As a result, a reference that coincidentally lists features of a claim without describing the claimed arrangement, relationship, and organization of such features cannot anticipate.

Furthermore, in order to render a claim obvious, a combination of references must teach or suggest each and every claim limitation. The Applicant respectfully submits that the cited references, alone or combined, fail to render the present invention obvious.

For at least the reasons set forth herein, the Applicant respectfully submits that the cited reference fails to anticipate, or render obvious, independent Claims 22, 29 and 33, and any claims depending therefrom. Thus, the Applicant respectfully requests that this rejection be withdrawn.

Specifically, the Examiner alleges that Shipp teaches that the claimed language

“a first related mat portion...[with] varied fiber size distribution being through a thickness dimension of said layered mat...wherein said first gradient density increases in a thickness direction through said first layered mat portion and a second layered mat portion of selected second varied fiber size distribution through a thickness of said second layered mat portion....”

Applicant asserts that the Shipp reference fails to teach increasing gradient density in a thickness direction within each portion of the layered mat. Additionally, Applicant has previously amended the claim language to require that the first layered mat portion and the second layered mat portion, “being formed on first and second drum collectors respectively....”

As previously discussed with the Examiner, when the Shipp reference was originally withdrawn, Shipp fails to teach varying fiber size distribution, “wherein said first gradient density increases in a thickness direction through said first layered mat portion and said second layered mat portion,” as recited in the Claim 22. Instead, Shipp only describes that each layer has fiber with a varying average diameter. ***Shipp however fails to provide increasing gradient density variation in the thickness direction within each layer.*** As discussed with the Examiner previously, Shipp’s density, permeability and fiber size distribution may be generally shown across each layer as a straight line due to this varying average diameter. However, a varying average (fiber size) diameter, as taught by Shipp, does not meet the claim limitation wherein the first gradient density increases in a thickness direction through or within the first layer of the mat portion and the second layer of the mat portion. In other words, Applicant’s claim limitation may have an average diameter in each layer, but Shipp’s average diameter does not meet the limitation of an increasing gradient density or permeability through each of the layers or layered mat portions. Thus, as previously discussed with the Examiner, when the Examiner previously withdrew Shipp, the cited art fails to meet this limitation and therefore cannot form a basis for a §102 rejection or a §103 rejection where such claim element is missing.

Additionally, regarding the Examiner’s assertion at Page 4 that Shipp’s gradient filter may be replaced with collecting drums as cited a Col. 1, lines 15-23, the Shipp reference is instead merely making a statement about the prior art. However, this portion of text does not necessitate that a belt may be substituted with drums and still provide the Shipp material. More accurately, the Examiner is respectfully referred to Column 5, lines

37-45, which sets forth the parameters of the Shipp process which may be varied.

Nowhere in this text does the Shipp reference provide that a belt may be substituted with a drum roller. In fact, at elements (6) and (7), the descriptions clearly define that a belt must be utilized.

More importantly however, Applicant requires that multiple drum collectors be utilized. Specifically, a single drum collector is used for each layer of the mat. However, Shipp clearly teaches that a single belt structure is utilized in formation of the melt blown material taught by Shipp. Therefore, there is no teaching, suggestion or motivation to substitute the single belt with the multiple drums as claimed by the Examiner and specifically there is no expectation of success that such substitution would work properly without rendering the Shipp process or product inoperable. Applicant requires such limitation because the use of multiple drum rollers, rather than a single belt or drum roller, in order to form the various layers of increasing gradient density through each mat layer.

Regarding Claim 33, each of the first and second layers are claimed to have “varied gradient density within said [first or second] layer and increasing through said thickness dimension of said [first or second] fibrous layer.” As discussed above, such limitation is not provided by Shipp.

Claim Rejections - 35 U.S.C. §103

The Examiner has rejected Claims 39 and 41-44 35 U.S.C. §103(a) as being unpatentable over Shipp. In order to render a claim obvious, a combination of references must teach or suggest each and every claim limitation. The Applicant respectfully

submits that the cited references, alone or combined, fail to render the present invention obvious.

Applicant has previously asserted that Claim 33 is believed to be in condition for allowance over Shipp as currently drafted. Accordingly, Applicant respectfully asserts that Claims 39 and 41-44 are also therefore allowable. Applicant respectfully requests this ground of rejection be withdrawn.

The Examiner has rejected Claims 28, 29, 35 and 37 over 35 U.S.C. §103(a) as being unpatentable over Shipp and in further view of Airflo (EP 0 960 645 A2). Claim 29 also requires varying fiber size distributions to provide varying gradient density and permeability within each of the first and second layered mat portions. As a result, the first layered mat portion has an increasing permeability and the second mat portion also has an increasing permeability. Such varying permeability through each layered mat portion is not taught in the Shipp reference.

Instead, the Shipp reference teaches a varying average diameter. This means that while fiber size varies and has an average within each layer, it is substantially constant and does not change as currently claimed in the Applicant's invention. **Instead, Shipp teaches that the change in gradient density or permeability occurs across the mat, as a whole, rather than within each of the mat portions.** Accordingly, for the reasons asserted previously, the rejection of Claim 29 fails as well as the rejection of the dependant Claims 35 and 37.

For at least the reasons set forth herein, the Applicant respectfully submits that the cited references fail to render obvious independent claims 22, 29 and 33, and any claim

depending therefrom. Thus, the Applicant respectfully requests that this rejection be withdrawn.

CONCLUSION

The Applicant respectfully submits that the application is in condition for allowance, and reconsideration and notice of allowance are respectfully requested. If the Examiner believes that prosecution might be advanced by discussing the application with the Applicant's counsel, in person or over the telephone, the Applicant's counsel would welcome the opportunity to do so.

Respectfully submitted,

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